



Addition of 326 IAC 1-1-7, Incorporation by Reference, and Amendments to Article 20

LSA Document #07-307

Update Since Preliminary Adoption

The proposed rule as adopted did not include the addition of 326 IAC 1-1-7, incorporation by reference. The IDEM Contact for this rulemaking is Amy Smith.

Overview

This rulemaking amends 326 IAC 20-8, 326 IAC 20-13-5 and 326 IAC 20-48 to make them consistent with federal rules. Finally, the rulemaking repeals 326 IAC 20-25, which has been made obsolete because all sources previously subject to this rule are now subject to either the Boat Manufacturing NESHAP (326 IAC 20-48) or the Reinforced Plastic Composites Production NESHAP (326 IAC 20-56).

Citations Affected

Amends 326 IAC 20-8-1; 326 IAC 20-13-5; 326 IAC 20-48-1. Repeals 326 IAC 20-25.

Affected Persons

Regulated sources are already required to comply with the proposed amendments to 326 IAC 20-8, 326 IAC 20-13-5 and 326 IAC 20-48; these amendments ensure that state rules are consistent with federal regulations. There are two categories of sources that would be interested in the repeal of 326 IAC 20-25: (1) boat manufacturing sources subject to 326 IAC 20-48; and (2) all other reinforced plastics composite manufacturing sources subject to 326 IAC 20-56.

Reasons for the Rule

The amendments to 326 IAC 20-8, 326 IAC 20-13-5 and 326 IAC 20-48 are needed to make state rules consistent with federal rules. Finally, this rulemaking removes a rule from the IAC, 326 IAC 20-25, that is no longer necessary as these regulations have been encompassed in other provisions of Title 326.

Economic Impact of the Rule

There are no economic impacts associated with the amendments as sources are already required to comply with the applicable federal rules. Additionally, there are no economic impacts associated with the repeal of 326 IAC 20-25. Sources are already subject to equivalent requirements in either 326 IAC 20-48 or 326 IAC 20-56.

Benefits of the Rule

Making the state rules consistent with federal rules should ease compliance burdens for regulated sources. Additionally, this rulemaking will remove obsolete rule language so regulated sources will not have to comply with duplicate requirements.

Description of the Rulemaking Project

Amendment to 326 IAC 20-8

IDEM incorporated by reference 40 CFR 63, Subpart N, Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks for major and nonmajor sources, at 326 IAC 20-8-1 with provisions for deferred sources to submit a Title V permit application by December 9, 2000 consistent with federal law at the time. On December 19, 2005, U.S. EPA published a final rule exempting the owner or operator of an area source subject to 40 CFR 63, Subpart N, from the obligation to obtain a Title V permit (70 FR 75345).

In this rulemaking, IDEM is deleting subsections (c) and (d) from 326 IAC 20-8-1 in order to remain consistent with the federal rule. Subsection (c) refers to the exemption for nonmajor sources with regard to a Part 70 permit application. Subsection (d) refers to the compliance date for deferred sources to submit a Title V application. These sources have now been granted a permanent deferral so these subsections are no longer necessary.

Amendment to 326 IAC 20-13-5

326 IAC 20-13-5 applies to secondary lead smelters and incorporates U.S. EPA's NESHAP for this source category. An owner or operator of a secondary lead smelter is required to install and continuously operate a bag leak detection system with an alarm for all baghouses controlling process and process fugitive sources. The corrective action requirements of the federal rule at 40 CFR 63.548 require that the owner or operator initiate procedures to determine the cause of the alarm within 30 minutes. However, the current language in 326 IAC 20-13-5(a)(2) states that procedures should be initiated to determine the cause of the alarm within one hour. The language in 326 IAC 20-13-5 is inconsistent with the federal requirements. Since affected sources have to comply with both requirements, the language referring to one hour is being deleted to clarify that sources are subject to the more stringent federal requirement.

Amendment to 326 IAC 20-48-1

The state styrene rule, (326 IAC 20-25), was promulgated before there was a final NESHAP to reduce emissions of hazardous air pollutants from boat manufacturing. IDEM subsequently promulgated a rule to consolidate the requirements from the state styrene rule and the federal NESHAP for boat manufacturers into one rule, 326 IAC 20-48. The state styrene rule is being repealed in this rulemaking since all requirements have been subsumed in either the boat manufacturing NESHAP rule, or the reinforced plastic composites production NESHAP rule. 326 IAC 20-48-1(c) of the boat manufacturing NESHAP is being amended to delete a reference to 326 IAC 20-25 since it is being repealed in this rulemaking.

Repeal of 326 IAC 20-25

The Air Pollution Control Board adopted 326 IAC 20-25 (state styrene rule) in October of 2000 in advance of the federal national emissions standards for hazardous air pollutants (NESHAP) for this source category. The state rule applied to all manufacturing of reinforced plastic composites parts and products, including fiberglass boats.

On August 22, 2001 the U.S. EPA promulgated a final NESHAP to reduce emissions of hazardous air pollutants from boat manufacturing. Subsequently IDEM completed a rulemaking to consolidate the requirements of the state styrene rule and the federal NESHAP for boat manufacturers into one rule, 326 IAC 20-48 (Emission Standards for Hazardous Air Pollutants

for Boat Manufacturing).

On April 21, 2003 the NESHAP for reinforced plastic composites production was promulgated by the U.S. EPA. IDEM completed a rulemaking to consolidate the requirements of the state styrene rule and the federal NESHAP into one rule, 326 IAC 20-56 (Reinforced Plastic Composites Production). This NESHAP covered all sources that were not previously covered by the boat manufacturing NESHAP (326 IAC 20-48).

The compliance date for all sources that were covered by the state styrene rule was April 21, 2006. Sources are now subject to the equivalent requirements in either 326 IAC 20-48 or 326 IAC 20-56. The state styrene rule (326 IAC 20-25) is no longer necessary. Therefore IDEM will repeal the rule.

Scheduled Hearings

First Public Hearing: September 5, 2007 at 1:00 pm at the Northwest Regional Planning Commission, 6100 Southport Road, Portage, Indiana.

Second Public Hearing: December 5, 2007 at 1:00 pm at the Indiana Government Center South, 402 West Washington Street, Indianapolis, Indiana.

Consideration of Factors Outlined in Indiana Code 13-14-8-4

Indiana Code 13-14-8-4 requires that in adopting rules and establishing standards, the board shall take into account the following:

- (1) All existing physical conditions and the character of the area affected.
- (2) Past, present, and probable future uses of the area, including the character of the uses of surrounding areas.
- (3) Zoning classifications.
- (4) The nature of the existing air quality or existing water quality, as appropriate.
- (5) Technical feasibility, including the quality conditions that could reasonably be achieved through coordinated control of all factors affecting the quality.
- (6) Economic reasonableness of measuring or reducing any particular type of pollution.
- (7) The right of all persons to an environment sufficiently uncontaminated as not to be injurious to:
 - (A) human, plant, animal, or aquatic life; or
 - (B) the reasonable enjoyment of life and property.

Consistency with Federal Requirements

These rules are consistent with federal rules.

Rulemaking Process

The first step in the rulemaking process is publication of one of three types of notices in the *Indiana Register*. The first type of notice is a first notice of comment period. The first notice of comment period includes a discussion of issues and opens a first comment period.

A second notice is then published which contains the comments and the departments responses from the first comment period, a notice of first meeting/hearing, and the draft rule. The second type of notice is a section 7 notice. A section 7 notice contains a determination by the commissioner under IC 13-14-9-7 that only one comment period is required. It contains the commissioner's determination and findings, the draft rule, a request for written comments and a notice of first meeting/hearing. The third type of notice is a section 8 notice. A section 8 notice under IC 13-14-9-8 contains the commissioner's determination and findings, the draft rule, a notice of a 30 day comment period and a notice of a public hearing. In the case of a regular rulemaking or a rulemaking initiated with a section 7 notice the Air Pollution Control Board holds the first meeting/hearing and public comments are heard. The proposed rule is published in the *Indiana Register* after preliminary adoption along with a notice of second meeting/hearing. If the proposed rule is substantively different from the draft rule, a third comment period is required. The second public meeting/hearing is held and public comments are heard. In the case of a rulemaking initiated with a section 8 notice, the Air Pollution Control Board holds a hearing/meeting on the draft rule and public comments are heard prior to consideration for adoption. Following final adoption or adoption, the rule is reviewed for form and legality by the Attorney General, signed by the Governor, and becomes effective 30 days after filing with the Publisher. This rulemaking was initiated with a section 7 notice.

IDEM Contact

Additional information regarding this rulemaking action can be obtained from Amy Smith, Rule Development Section, Office of Air Quality, (317) 233-8628 or (800) 451-6027 (in Indiana).